

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 3

INITIAL STATEMENT OF REASONS**CALIFORNIA CODE OF REGULATIONS**

TITLE 8: Chapter 4, Subchapter 2, Article 4, Section 769 of
the Boiler and Fired Pressure Vessel Safety Orders
and
TITLE 24: Part 4, Chapter 10, Section 1016.0
of the California Mechanical Code

Boiler Installation**SUMMARY**

The California Building Standards Commission (CBSC) is mandated, by Health and Safety Code Sections 18928 and 18938, to adopt the most recent edition of the Uniform Mechanical Code as part of its triennial adoption cycle for CCR Title 24 Building Standards. The Occupational Safety and Health Standards Board (Standards Board) is mandated by Health and Safety Code Section 18943(b) to submit Title 8 building standards to the CBSC for their approval and adoption into the Title 24 California Building Standards.

The CBSC has notified the Standards Board that on or about November 1, 2002, the 2001 California Mechanical Code (CMC), i.e., the 2000 Edition of the Uniform Mechanical Code (UMC), published by the International Association of Plumbing and Mechanical Officials, with California amendments, will become effective.

Title 8 building standards for boilers currently are included as amendments to the 1995 California Mechanical Code. In order to preserve these Title 8 requirements in Title 24 building standards, it is necessary for the Standards Board to prepare and submit amendments to the 2001 Edition of the California Mechanical Code.

Furthermore, the Title 24 amendments in this rulemaking action are based on recommendations from the Division of Occupational Safety and Health (DOSH) Pressure Vessel Unit. The Pressure Vessel Unit is undertaking a comprehensive update to the Boiler and Fired Pressure Vessel Safety Orders and has recommended replacing the existing non-specific reference to American Institute of Steel Construction recommendations with design criteria consistent with the 2001 Edition of the California Building Code. Therefore, this rulemaking action proposes to incorporate these recommended changes to the building standards for boiler installations contained in both Titles 8 and 24.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION

This proposed rulemaking action contains some nonsubstantive and editorial revisions and reformatting of subsections. These nonsubstantive revisions are not all discussed in this Informative Digest. However, these proposed revisions are clearly indicated in the regulatory text in underline and strikeout format. In addition to these nonsubstantive revisions, the following actions are proposed:

Section 769. Boiler Supports.

Existing Section 769 is entitled “Boiler Supports.” An amendment is proposed to rename the Section “Boiler Installation.” The proposed change will more accurately reflect the requirements of this Section and make it easier for the regulated public to locate boiler installation and support requirements.

Subsection 769(a) currently contains design criteria for boiler supporting structures without reference to any nationally recognized standards or model codes. An amendment is proposed to reference the 2001 California Building Code for boiler supporting structure design criteria pertaining to live and dead loads, and other imposed loads, including those resulting from wind, and seismic forces. The proposed changes are necessary to harmonize Title 8 and Title 24 design requirements for boiler support structures.

Existing subsection 769(b) requires that the stresses used in the design of boiler supporting structures are to conform to the recommendations of the American Institute of Steel Construction (A.I.S.C.). The A.I.S.C. is an organization that develops standards pertaining to design and construction of structural steel buildings. Since the subsection, however, does not specify which A.I.S.C. standards are applicable, making the regulation vague and unenforceable, it is necessary to delete this subsection.

Existing subsections (c) through (f) cover various aspects of boiler installations, including, but not limited to: the location and protection of structural supports, inspection accessibility, and a prohibition against installing water-tube and horizontal tubular boilers in battery settings unless specific provisions are met. These subsections are proposed for renumbering to accommodate the proposed deletion of subsection (b). In addition, it is proposed to divide existing subsection (f) into two subsections, (e) and (f), in order to separate the subject matter. The proposed amendments are necessary to provide clarity to the existing requirements in this section.

An amendment is proposed to replace the outdated Title 24 reference at the end of Section 769 with the new Title 24 reference, Title 24, Part 4, Section 1016.1. In addition, it is proposed to add an authority and reference citation to correct an editorial omission. The proposed amendment is necessary to accurately direct the regulated public to the correct Title 24 reference.

DOCUMENTS RELIED UPON

1. California Code of Regulations (CCR), Title 24, Part 2, California Building Code, 2001 Edition.
2. California Code of Regulations (CCR), Title 24, Part 4, California Mechanical Code, 2001 Edition.

These documents are available for review Monday through Friday from 8:00 a.m. to 5:00 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulations do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these regulations do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

These proposed regulations do not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulations require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, proposed regulations do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

These proposed regulations do not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses.

ASSESSMENT

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.